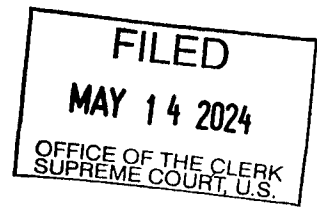


23 - 7533
No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

CHADWICK WRIGHT

- PETITIONER

VS.

TIM HOOPER; WARDEN, LOUISIANA

STATE PENITENTIARY

- RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES FIFTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

Chadwick Wright 368195

Louisiana State Penitentiary

Angola, LA 70712

Phone Number: N/A

QUESTION PRESENTED

Does the Fourteenth Amendment of the United States Constitution mandates the appointment of counsel to indigent prisoners in State collateral proceedings that provides the first occasion to raise a claim of ineffective assistance at trial?

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition as follows:

Chadwick D. Wright - Petitioner

Tim Hooper, Warden, Louisiana State Penitentiary - Respondent

Hugo A. Holland, Jr. - Counsel for Respondent

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States District Court appears at Appendix B to the petition and is reported at 2023 WL 3310170 and 2023 WL 6882454.

STATEMENT OF JURISDICTION

The date on which the United States Court of Appeals decided my case was February 15, 2024.

No petition for rehearing was timely filed in my case.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following constitutional provision and statutes are involved in this case:

United States Constitution, Fourteenth Amendment

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

FEDERAL RULES OF CIVIL PROCEDURE, RULE 60(b)

see, Appendix M

STATEMENT OF THE CASE

The case underlying my petition is an action to relieve my person from the U.S. Western District Court of Louisiana's ("District Court") Judgment denying Federal review of my Prosecutorial Misconduct Claim¹ (Habeas Claim One) and Ineffective Assistance of Counsel claim² (Habeas Claim Three), in order to secure adjudication of those claims. Appendix ("APP.") E, page ("P.") 18.

My petition also concerns my U.S. Constitutional right to meaningful access to the courts during my contestation of the constitutionality of my State conviction and sentence. APP. E, p. 20.

On July 30, 2012, and after petitioning State courts for relief from my State conviction and sentence, I petitioned the District Court for Federal relief under 28 U.S.C. § 2254 (APP. J) claiming that:

- the State's prosecutor utilized inadmissible evidence to demonstrate

**** FOOT NOTE**

1. This claim was presented within my First Petition for Post-Conviction Relief ("PCR") submitted to State trial court.
2. This claim was presented within my Second PCR petition.

my person inflicting fatal gunshot wounds to the victim's person to secure my conviction and sentence for a crime of murder (Prosecutorial Misconduct),³ App. J, pp. 7-8;

- the State's appointed defense trial counsel failed to investigate information known to him and present a meaningful trial defense in my behalf (Ineffective Assistance of Counsel I.), App. J, pp. 9-12; and
- the State's appointed defense trial counsel assisted the State obtain my conviction and sentence by aiding in the State's prosecutor's placement of inadmissible evidence into the trial evidence against my person (Ineffective Assistance of Counsel II.),⁴ App. J, pp. 12-18.

Upon passing on the merits of my habeas petition, the Magistrate Judge found that the trial court procedurally barred State post-conviction

3. I resubmitted my Prosecutorial Misconduct claim to the trial court, within a third PCR petition, after I developed an adequate understanding how to state a claim within the State's procedural requirement, to show and establish the modle said claim would have been presented had I received adequate assistance upon activating my initial PCR proceeding. see App. F, pp. 24-72.

4. I resubmitted my Ineffective Assistance of Counsel claim also, to show and establish the modle said claim would have been presented upon activating my initial PCR proceeding. See App. F, pp. 26-72.

review of my Prosecutorial Misconduct claim (App. H.P. 9-10) and Ineffective Assistance of Counsel II. claim. App. H.P. 11.

The Magistrate Judge also found that the trial court determined I have inexcusably failed to raise during trial my claim concerning the admissibility of the State's evidence, because my "supporting fact are founded on the trial transcript and evidence made apart of the trial," in its application of Louisiana Code of Criminal Procedural Article ("LA. C. Cr. P. Art.") 930.4(B) procedural bar against my claim. App. H.P. 10.

In reference to my claim demonstrating defense counsel collaborated with the State's prosecutor to secure my conviction, the Magistrate Judge found that the trial court determined I had inexcusably failed to raise said claim within my First PCR petition and classified said claim as being "repetitive, successive, and fails to raise a new or different claim" because the factual basis in support of said claim are the same factual basis in support of my Prosecutorial Misconduct

claim, which was presented within my First PCR Petitions in its application of LA. C.C.P. Art. 930.4 (D) procedural bar. App. H.P. 11.

In reference to my claim demonstrating appointed defense counsel failure to investigate known facts and present a meaningful trial defense, the Magistrate Judge found that the trial court denied said claim "on its merits, holding that "Petitioner failed to show in what way his counsel's investigation was defective or inadequate...

Petitioner does not state in what way his counsel could have been more thorough in his investigation of the case." App. H.P. 15-17 (quoted in the original).

The Magistrate Judge also determined my Ineffective Assistance of Counsel I. claim to be "incomplete," "conclusory," and does not "allege any specific facts, much less furnish any evidence, to either the state courts or this Court to establish precisely what additional exculpatory or mitigating evidence or what new defensive theories could have been developed had his trial counsel conducted further investigation into the areas at issue," after personally

examining said claim. App. H.7. 17.

On June 25, 2013, the Magistrate Judge produced a Report and Recommendation urging the District Court to deny, on procedural grounds, my Prosecutorial Misconduct and Ineffective Assistance of Counsel II. claims; because those claims are barred from Federal review by an adequate State procedural default that is independent of Federal law. App. H. pp. 9-15.

The Magistrate Judge also recommended that my Ineffective Assistance of Counsel I. claim be denied on its merits. App. H. pp. 17-18. Prior to recommending that my Habeas Corpus petition "be Denied and Dismissed With Prejudice." App. H. p. 18.

On August 15, 2013, I filed an objection to the Magistrate Judge's and Recommendation, App. I, arguing:

- the Magistrate Judge did not consider my claim, as stated within my

Memorandum in Reply to State's objection⁵, concerning appointed trial

5. My Memorandum in Reply to State's objection is my response to the State's Amended Memorandum in Opposition to Petition Under 28 U.S.C. A. § 2241 and § 2254 for a writ of Habeas Corpus (App. K), in which the State submitted, into the District Court, arguments that my

Counsel's ineffectiveness brought about the default that prevented State review of my Prosecutorial Misconduct claim, in determining whether I was entitled Federal review of said claim. App. I, pp. 3-4;

- the Magistrate Judge did not consider my claim, as stated within my Memorandum in Reply to State's Objection, concerning the absence of counsel during the State post-conviction initial review proceeding designated for raising claims of ineffective assistance of trial counsel, equalizes my Ineffective Assistance of Counsel II. claim to the Martinez v. Ryan, 132 S.Ct. 1309 (2012), exception for securing Federal review of said defaulted claim, in determining whether I was entitled to Federal review of said claim. App. I, pp. 4-6; and
- the Magistrate Judge's recommendation urging the District Court to deny my Ineffective Assistance of Counsel I. claim, is based on the magistrate's misunderstanding of the content of said claim and does not address the issue presented. App. I pp. 6-13.

Prosecutorial Misconduct and Ineffective Assistant of Counsel II. claims are barred from Federal review. App. K pp. 18-20. However, the District Court's Docket Master does not reflect a record neither filing evidence of my Memorandum in Reply to State's Objection. See App. I, p. 17.

On August 28, 2013, the District Judge Ordered, Adjudged and Decreed that my filed habeas corpus petition be Denied and Dismissed with Prejudice, after considering the Magistrate Judge's Report and Recommendation together with my filed written objection, and after performing a de novo review of the record.⁶ App. H.

On September 9, 2013, I filed a notice of appeal into the District Court. On September 16, 2013, the District Court denied issuance of a Certificate of Appealability ("COA")

While prosecuting my habeas complaints within Federal Court, I

6. The District Judge reported performing a de novo review of the record together with my written objection to the Magistrate Judge's Report and Recommendation, App. H. Consequently, the Habeas Record does not retain my Memorandum in Reply to State's Objection see App. I, p. 17; and the District Judge did not disclose whether the District Court declined to file said memorandum into the Habeas Record for consideration neither provided a statement regarding the District Court not receiving said memorandum, as a response to my reference to said memorandum within my Memorandum in Opposition to the Magistrate's Report and Recommendation, *supra*, App. H. Such supported the District Court's rejection of my Memorandum in Reply to State's Objection to go without notice to my person and prevented my person from offering proof establishing said memorandum had been forward to the District Court.

notice my inability to adequately communicate with the courts despite State assistance, App. F, pp. 3-5. Such motivated my person to seek adequate knowledge in the science of law then, thereafter, reinstitute prosecution of my habeas complaints in challenging the constitutionality of my State conviction and sentence, App. F, pp. 3-5.

Therefore, I filed a motion into the U.S. Fifth Circuit Court of Appeals ("Court of Appeals") requesting that my intent to appeal the District Court's Judgment be dismissed.

On November 8, 2023, the Court of Appeals acted upon my request and dismissed my case under Rule 42(b), Federal Rules of Appellate Procedure, App. I, p. 16.

On February 8, 2023, I motion the District Court under Rule 60(b)(6), Fed. R. Civ. Pro., for relief from Its August 28, 2013, Judgment denying federal review of my Prosecutorial Misconduct and Ineffective Assistance of Counsel II. claims, on grounds that the District Court's Judgment rests on a determination reached by the State's trial court as a benefit from violating my U.S. Fourteenth

Amendment Constitutional right App. E.

My Rule 60(b)(6) motion also asserts that the issue presented demonstrate circumstances warranting Federal intervention for protecting the U.S. Constitutional right to a fair trial and meaningful appellate review of conviction and sentence. App. E p. 26

On May 8, 2023, the District Judge filed a Memorandum Ruling denying my Rule 60(b)(6) motion as untimely, ruling that I failed to include within the pleading of my motion an explanation justifying motioning for reconsideration "nearly a decade" after the District Court's denial of habeas relief, App. B, p. 6-7.

On May 19, 2023, I filed into the District Court a notice of my intent to appeal said court's May 8, 2023, judgment.

On July 11, 2023, I filed into the District Court a Rule 60(b)(1) motion seeking relief from the District Court's May 8, 2023, Order denying reconsideration of its judgment denying my person habeas relief, App. F. Said motion demonstrates my failure to include within the pleading of my first Rule 60(b) motion an explanation

justifying my delay in motioning for reconsideration, is excusable neglect, App. F, p. 2; and my U.S. Fourteenth Amendment Constitutional right to meaningful access to court qualified my delayed motioning as being at a reasonable time, due to the absence of necessary assistance for securing meaningful court access, App. F, pp. 3-5.

On October 18, 2023, the District Judge filed an Order denying relief and confirming as untimely my motioning for reconsideration of the District Court's denial of habeas relief, App. C. The District Judge ruled that I could not prevail on my meaningful access to court claim, because "State prisoners have no Constitution right to either an attorney or inmate counsel in state post-conviction proceedings." App. C, p. 2.

On October 23, 2023, I filed within the District Court a notice of my intent to appeal the District Court's October 18th Judgment. Subsequently, the District Court denied COA on October 30, 2023.

On December 29, 2023, I petitioned the Court of Appeals for a COA, App. D. My petition expresses that jurises of reason could

disagree with the District Court's denial of my motions for reconsideration, because:

- the District Court did not adhere to established precedent in determining the timeliness of my motion for reconsideration, App. D, pp. 5 and 27-28;

- my U.S. Constitutional right to meaningful access to the courts, justifies "good cause" for my delay in motioning for reconsideration; App. D, pp. 28-30;

- the District Court's proclamation that there exist "no constitutional right" to attorney "in state post-conviction proceedings," *supra*, addressed my claim regarding the State violated my U.S. Constitutional right to due process and equal protection of laws by the State's failure to appoint counsel to assist my person during state post-conviction; therefore, the District Court's declaratory judgment, is cognizable for appellate review, App. D, pp. 30-31; and,

- "the U.S. Supreme Court's judgment declining to extend to post-conviction relief the constitutional right to counsel, is predicated on the fact that: (1) the post-conviction proceeding occurred after the State provided effective counsel to the indigent prisoner for challenging, in all aspects, the constitutionality of the criminal trial

proceeding resulting in conviction and sentence; (2) the State cannot be required to furnish effective counsel during the indigent prisoner's continuing efforts to over-turn his conviction and sentence; and (3) Post-Conviction concerns matters external to the criminal trial proceeding. And the U.S. Constitution dictates that the State appoint counsel for raising claims of ineffective assistance of trial counsel at the initial post-conviction proceeding for raising said claim. Because, requiring my person to undergo my appeal as of right without the benefit of counsel in respect to claims of ineffective assistance of trial counsel, extends a meaningless ritual to my person as to said claim, I"

APP. D, pp. 25-26 and 30-32.

On February 15, 2024, the Court of Appeals ruled that:

- I failed to show "that reasonable jurists could conclude that the district court's denial of my motions was an abuse of discretion."

APP. A, p. 2;

- I abandoned my claim regarding the District Court erred in denying Federal review of my Prosecutorial Misconduct and Ineffective Assistance of Counsel II. claims; App. A, p. 2; and,

- my claim concerning the State violated my constitutional rights by failing to appoint counsel to raise my ineffective assistance of trial

Counsel Claims at State Post-conviction "is an unauthorized successive claim over which the district court lacked jurisdiction;" and "that claim does not deserve encouragement to proceed further." App., A, p. 2.

I now seek review of the Court of Appeals' order. Absent the grant of this petition for writ of certiorari by this Court, state judicial actors will continue in their ability to circumvent the criminal defendant's U.S. Sixth Amendment Constitutional right "to have the Assistance of Counsel for his defence."

REASON FOR GRANTING THE WRIT

I.

THE QUESTION PRESENTED IS ONE OF EXTRAORDINARY NATIONAL IMPORTANCE THAT THIS COURT HAS LEFT OPEN

In Martinez v. Ryan, this Court acknowledged that Coleman v. Thompson, 111 S.Ct. 2546, 2567 (1991) left open a question of constitutional law concerning whether a prisoner has a Constitutional

right to counsel during State initial collateral proceedings which provide the first occasion to raise a claim of ineffective assistance at trial, see, 132 S.Ct. 1359, 1315 (2012).

However, the Martinez Court determined that the issue presented did not create the occasion for determining whether the U.S. Constitution entitles a prisoner with the right to counsel in an initial collateral proceeding, see, 132 S.Ct., at 1315.

The circumstances involving the issue that I presents differs from Martinez, in which, unlike Martinez, concerns the State not appointing counsel to assist my person in the initial collateral proceeding that provided the first occasion to raise a claim of ineffective assistance at trial; and the absence of said appointment resulted in my inability to achieve meaningful court access, during the initial collateral proceeding, and resulted in my ineffective assistance of trial counsel claim not receiving Federal review.

My ineffective assistance of trial counsel claim, is meritorious.

See, App. E, pp. 11-18.

This Court recognized that a prisoner "needs an effective attorney" to present an ineffective assistance of trial counsel claim "in accordance with the State's procedures," see, 132 S.Ct., at 1317; and while confined to prison, the prisoner is in no position to develop the evidentiary basis for a claim of ineffective assistance, which often turns on evidence outside the trial record." See, *Id.*.

This Court also declared: "A prisoner's inability to present a claim of trial error is of particular concern when the claim is one of ineffective assistance of counsel." *Id.*

This Court has repeatedly recognized the importance to the public at large of resolving questions of patent invalidity. Cardinal Chemical Co. v. Morton Int'l. Inc., 113 S.Ct. 1967, 1977 (1993) (citing Blonder-Tongue Labs., Inc. v. University of Illinois Found., 402 U.S. 313, 336 (1971)). Unlike the issue of patent infringement, which directly affects only the litigants themselves, a patent's validity affects the public at large. See, Sinclair & Carroll Co. v.

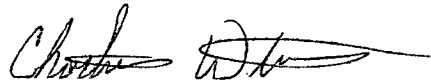
conviction proceedings, based on the presented facts and circumstances involving this matter.

Therefore, there is no reason for this Court to refrain from definitively resolving the question presented now.

CONCLUSION

For the reason stated, the petition for a writ of certiorari should be granted.

Respectfully submitted,



Chadwick Wright 368195

May 13, 2024

Date